



City of Seattle Seattle Planning Commission

Gregory J. Nickels, Mayor
Barbara Wilson, Executive Director

November 21, 2006

Honorable Councilmember Peter Steinbrueck
Chair, Urban Development and Planning Committee
Seattle City Council - Seattle City Hall
PO Box 34025
Seattle, WA 98124-4025

Re: Commercial Code Proposed Regulations and Seattle Green Factor

Dear Councilmember Steinbrueck,

The Seattle Planning Commission (SPC) has presented you with comments regarding the proposed changes to the Commercial Code as outlined in Council Bills CB 115745 and CB 115746. This letter discusses in more detail the Commission's comments regarding the Seattle Green Factor (SGF) as an element of the proposed legislation to reform the Commercial Code.

The Planning Commission is a strong advocate for innovation and sustainability, and believes the concept behind the SGF is a good one that should be embraced by the City of Seattle. We strongly support the environmental goals of the proposal, but would like to point out some potential unintended consequences and offer recommendations to address our concerns with the current proposal.

When the Commission first reviewed the proposed revisions to the Commercial Code last year, the SGF was not a part of the proposal. The Executive's proposal, recognizing that the current open space requirement of 20% was widely considered to be excessive, reduced the percentage to 10%, and broadened the category to "Amenity Space" so that, for example, indoor common recreational space could be included in the calculation. The Commission endorsed these changes. The current proposed legislation would further reduce the required Amenity Space to 5% of gross building area in residential use, and would replace the requirement for landscaping at 5% of lot area with the SGF at 0.30, equivalent to 30% of site area. These two changes are considered as one.

Under the Seattle Green Factor, the requirement for open space is essentially being replaced with a requirement for environmentally-beneficial landscaping. It is our understanding that the SGF is intended, among other objectives, to be an incentive to developers to provide more and better landscaping in the right of way. It also incentivizes green roofs. We support these worthy goals but are concerned about the Green Factor's impact on small businesses and raise questions about its implementation.

The SGF should be extremely sensitive to the needs of neighborhood businesses and their dependence on on-street parking, pedestrian safety and visibility of signage. We

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are also concerned about the responsibility for maintenance of landscaping, especially on small sites, and would like to see further exploration of possible enforcement tools so landscaping remains well maintained. One possibility would be revised street front standards that include outdoor water and utility access, allowing for better maintenance of landscaping.

Our other main concern is implementation. Because the SGF incentivizes landscaping in the right of way, it will require the early involvement of SDOT in the entitlement process if that objective is to be met. We are concerned that it may not be realistic at this time to expect SDOT to work through the entitlement process in the same time frame that DPD does. Decisions about what may be permitted in the right of way are often complex, involving a wide variety of technical issues such as utility lines and vaults, traffic, pedestrian safety, curb cuts, on-street parking, commercial parking zones, load zones, bus stops, light poles, and stormwater management, as well as street trees, curb bulbs, planting beds and other “green” elements. Often these issues may conflict with the desire to provide extensive landscaping in the right of way, and the time required to resolve such conflicts may far exceed a reasonable time frame for entitlement.

Although SDOT is making progress toward early identification of required right-of-way improvements, we are still concerned applicants will be unable to get through the process in a reasonable time. In order to avoid uncertainty, applicants may choose to provide only the minimum street trees, which could negate one of the goals of the Green Factor; to encourage landscaping in the right of way. This could also mean the menu of environmentally-beneficial measures available to meet the SGF may not be as extensive as originally envisioned, which would alter the theoretical analyses done to show the effect of introducing the Seattle Green Factor. Similarly, the ability to meet the requirement through the use of green walls may not be as readily available as originally envisioned due to the difficulties with moisture penetration in our climate. For this reason many architects could be reluctant to include green walls, except in limited areas with concrete or masonry walls, such as loading docks.

While we strongly endorse the environmental agenda underlying the Seattle Green Factor, we believe that it is driven by an agenda different than the agenda that originally drove the Commercial Code revisions. The original agenda included code simplification and the reform of regulations perceived to not function as intended. The SGF is driven instead by an environmental agenda, which we wholeheartedly endorse, but which we hope to see it be implemented in a way that will ensure that it meets its laudable objectives without proving to be too large of a burden on development.

We recommend that the regulations be modified to provide for transition from the current requirements. One way this could be done is as follows:

- Keep the current open space requirement, 20% of gross floor area in residential use, in place for a period of five years, but put this requirement on the list of items that cannot be waived through the Design Review process.
- Allow developers the option of a waiver of the 20% open space requirement if the developer meets the SGF and a 5% Amenity Space.
- After five years, the SGF and the 5% Amenity Space would become mandatory.

The intent is to provide a powerful incentive to meet the SGF during the transition period, by making the current 20% open space requirement mandatory, while making the SGF an attractive option. Currently, departure from the 20% open space requirement is very frequently sought in Design Review, so we believe this incentive approach will work.

Another way to provide for some transition to the SGF is to introduce it at a lower level, such as 0.20 or 0.25, with an increase of 0.01 or 0.02 scheduled annually until the 0.30 level is achieved.

As discussed with staff, we also recommend that the SGF regulations not be subject to departure in the Design Review process, due to their complexity and the need for special expertise in understanding and interpreting specific proposals.

The Commission is ready and willing to assist with further review of this proposal and we remain committed to the goals of the Seattle Green Factor. We believe there is a workable solution that can address the issues surrounding implementation and neighborhood businesses and achieve the laudable goals of the Green Factor. Please feel free to contact the Commission for clarification on any of these points through our Executive Director, Barbara Wilson at (206) 684-0431.

Sincerely,



Jerry Finrow, Chair
Seattle Planning Commission

CC:

Greg Nickels, Mayor

Seattle City Council

Tim Ceis, Deputy Mayor

Diane Sugimura, John Rahaim, John Skelton, Lish Whitson, Steve Moddemeyer, DPD

Grace Crunican, Susan Sanchez, SDOT

Rebecca Herzfeld, Keitel Freeman, Council Central Staff

Record of Disclosure

Commissioner Tom Eanes disclosed that he is employed by Hewitt Architects and that they could potentially develop in a commercially zoned area in the future.

Commissioner Chris Fiori disclosed that he is employed by Heartland LLC, and that they could potentially develop in a commercially zoned area in the future.

Commissioner Kay Knapton disclosed that she is a consultant to neighborhood business districts.

Commissioner Tony To disclosed that he is employed by Homesight, a non profit housing developer, and that they could potentially develop in a commercially zoned area in the future. He noted that Homesight has no current development projects underway in a Neighborhood Commercial zone.